

DEPARTMENT OF BENEFIT PAYMENTS
744 P Street, Sacramento, CA 95814

January 12, 1979

ALL-COUNTY INFORMATION NOTICE I-8-79

FSD NO. 79-2

TO: ALL COUNTY WELFARE DIRECTORS
ALL TITLE IV D AGENCIES
ALL DISTRICT ATTORNEYS

SUBJECT: CHILD SUPPORT GOOD CAUSE REGULATIONS**REFERENCE:**

Attached is an advance copy of revised child support regulations which implement federal regulations concerning the establishment of good cause for AFDC applicants and recipients to refuse to cooperate in establishing paternity and securing child support.

We expect to file these regulations on an emergency basis upon approval of the Joint Legislative Budget Committee, but no later than January 29, 1979. The effective date of the regulations will be February 1, 1979. The Joint Legislative Budget Committee approval is essential to ensure funding for the Department's increased expenditures which would result from implementation of these regulations. It is estimated that the total administrative and program costs would increase by \$80,400 for FY 78-79 and by \$225,200 for FY 79-80.

You will receive notice when these regulations are filed. If you have any questions, please contact your AFDC management consultant at (916) 445-4458.

Sincerely,

Kyle S. McKinsey
KYLE S. MCKINSEY
Deputy Director

Attachments

cc: CWDA

.1 Establishing Paternity and Securing Child Support

.11 Each applicant for or recipient of AFDC shall be required to cooperate in the following ways with the county and the district attorney in establishing paternity and securing child support:

.111 Identifying and locating the parent(s) of a child for whom aid is requested, or who is a member of the FBU;

.112 Establishing paternity of a child for whom aid is requested or who is a member of the FBU;

.113 Obtaining support payments for himself or herself and for a child for whom aid is requested or who is a member of the FBU.

.12 Before the applicant or recipient is required to cooperate, he/she shall be informed, by means of the / form, of the benefits of the Child Support Enforcement Program, the above requirements, and the right to claim good cause for refusal to cooperate.

.13 When an applicant or recipient has established good cause for refusing to cooperate, the requirement in .11 is satisfied.

.2 Specific Actions Relating to Cooperation

In order to comply as required in .1 above, an applicant or recipient shall, within his/her capabilities (see Section 40-105.1), take the following actions when requested to do so by the county: _____

.21 Agree to:

.211 Cooperate with the county and the district attorney with respect to the obligations set forth in .1; or

.212 Establish good cause for refusal to cooperate as specified in Section 43-107.42.

The agreement shall be signed and dated by the applicant or recipient and the eligibility worker. One copy shall be furnished to the applicant or recipient and one placed in the case record.

- .22 Complete Form CA 2.1 and any additional forms required _____
_____ by DSS.
- .23 Appear at the office of the district attorney;
- .24 Provide to the district attorney verbal, written or documentary information which is related to the items listed in .1 above which he or she has or can get.
- .25 Appear as a witness at court or at other hearings and proceedings related to the items listed in .1 above.
- .26 Pay any child support payments which he or she receives directly from an absent parent to the district attorney or to some other county agency designated by the district attorney.
- .3 Aid shall not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements of Sections 43-107.42 and 43-107.44 to furnish corroborative evidence and information.
- .4 Determination of Good Cause
- Good cause exists when cooperation is against the best interests of the child, as specified in the good cause circumstances described in .411 and .412 below.
- The following regulations establish the procedures for determining whether good cause exists and the procedures to be followed when the good cause determination is completed. These regulations / shall not preclude the county from contracting with the district attorney to investigate or assist in the investigation of good cause claims.

.41 Good Cause Circumstances

.411 The applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

a. Serious physical harm to the child for whom support is to be sought; or

b. Serious emotional harm to the child for whom support is to be sought; or

c. Serious physical harm to the parent or caretaker relative with whom the child is living which reduces the capacity of the parent or caretaker relative to care for the child adequately; or

d. Serious emotional harm to the parent or caretaker relative with whom the child is living, of such nature or degree that it reduces the capacity of the parent or caretaker relative to care for the child adequately.

.412 The county believes that proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought because at least one of the following circumstances exists:

a. The child for whom support is sought was conceived as a result of incest or forcible rape;

b. Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

c. The applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issues of whether to keep the child or relinquish him/her for adoption, and the discussions have not gone on for more than three months.

.413 The good cause circumstances of physical or emotional harm shall
be genuine and of a serious nature. The mere belief of the appli-
cant or recipient that cooperation would result in harm shall not
be sufficient basis for finding good cause. A finding of good
cause for emotional harm / shall be based only upon a demonstration
of an emotional impairment that substantially affects the indi-
vidual's functioning.

.414 For every good cause determination which is based in whole or
part upon the anticipation of emotional harm to the child, the
parent or the caretaker relative, the county / shall consider the
following:

- a. The present emotional state of the individual subject to
emotional harm;
- b. The emotional health history of the individual subject to
emotional harm;
- c. The intensity and probable duration of the emotional im-
pairment;
- d. The degree of cooperation to be required; and
- e. The extent of the involvement of the child in the paternity
establishment or support enforcement activity to be undertaken.

.42 Applicant and Recipient Responsibility in Establishing Good Cause

The applicant or recipient who claims to have good cause for refusing
shall have
to cooperate / the burden of establishing the existence of a good
cause circumstance. The applicant or recipient / shall BE required to:

.421 Specify the circumstances (see .41 above) that the applicant
or recipient believes provide sufficient good cause for not
cooperating, i.e., the good cause claim.

.422 Corroborate the good cause circumstances in accordance with .43
below and,

.423 Provide corroborative evidence within 20 days from the day the
good cause claim is made except in exceptional cases. Except-
ional cases are defined as those in which it is difficult to
obtain corroborative evidence. In such cases, the county shall
allow, upon approval by supervisory personnel, an additional
period of time which the county believes is reasonable.

.424 If requested, provide sufficient information (such as the puta-
tive father or absent parent's name and address, if known) to
permit an investigation.

.43 Types of Corroborative Evidence

A good cause claim may be corroborated with the following types of evidence:

- .431 Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or rape;
- .432 Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;
- .433 Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative;
- .434 Medical records which indicate emotional health history and the present emotional health status of the caretaker relative or the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child for whom support would be sought; .
- .435 A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him or her for adoption.
- .436 Statements under penalty of perjury from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim.

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.44 Proof of Good Cause Claim

.441 The county ^{shall} examine the corroborative evidence supplied by the applicant or recipient to ensure that it actually verifies the good cause claim.

.442 If after examining the corroborative evidence submitted by the applicant or recipient the county wishes to request additional corroborative evidence which is needed to permit a good cause determination, the county shall:

- a. Promptly inform the applicant or recipient that additional corroborative evidence is needed; and
- b. Specify the type of document which is needed.

.443 Upon request, the county shall:

- a. Advise the applicant or recipient how to obtain the necessary documents; and
- b. Make an effort to obtain specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

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.444 Where a claim is based on the applicant's or recipient's anticipation of physical harm as specified and defined in Section .41 above and corroborative evidence is not submitted in support of the claim:

shall

a. The county / investigate the good cause claim where it believes that:

(1) The claim is credible without corroborative evidence;

and

(2) Corroborative evidence is not available.

b. Good cause / shall be found if the claimant's statement and the investigation which is conducted satisfy the county that the applicant or recipient has good cause for refusing to cooperate.

c. A determination that good cause exists shall be reviewed and approved or disapproved by supervisory personnel and the county's findings shall be recorded in the case record.

.445 In the course of determining whether good cause exists, the county shall not contact the absent parent or putative father from whom support would be sought unless such contact is determined to be necessary to establish the good cause claim.

a. Prior to making contact with the absent parent or putative father, the county will inform the applicant or recipient that the absent parent or putative father may be contacted unless the applicant or recipient:

(1) Presents additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary;

(2) Withdraws the application for assistance or requests discontinuance.

b. The county shall inform the applicant or recipient that he/she may request that the good cause claim be denied. If the applicant or recipient makes this request, the county shall send the appropriate Notice of Action as specified in .462 below.

.45 Participation by the District Attorney

Prior to making a final determination of good cause for refusing to cooperate, the county shall:

.451 Afford the district attorney the opportunity to review and comment on the findings and basis for the proposed determination; and

.452 Consider any recommendation from the district attorney.

.453 The county shall give the district attorney as a witness the opportunity to participate in any hearing (under EAS Chapter 22-000) that results from an applicant's or recipient's appeal of any county action relating to establishing paternity or securing child support.

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.46 Finding that Good Cause Does or Does Not Exist.shall

.461 The county/determine whether good cause exists based on the claimant's statement together with the corroborative evidence and/or any investigation which may have been conducted.

.462 The applicant or recipient / ^{shall} be notified on the appropriate ABCD 239 Notice of Action of the final determination that good cause does or does not exist. If good cause does not exist, the notice shall also specify that:

a. The applicant or recipient will be afforded an opportunity or to either to cooperate, / withdraw the application for assistance or to have the case closed; and

b. Continued refusal to cooperate will result in imposition of the sanction provided by Section 43-107.47.

.463 If good cause exists, the county shall determine whether child support enforcement may proceed without risk of harm to the child or caretaker relative if the caretaker relative does not participate in these child support activities.

a. This determination / ^{shall} be in writing, contain the county's findings and basis for the determination, and be entered into the case record.

b. If the county excuses cooperation but determines that the / ^{district attorney} may proceed to establish paternity or enforce support, the county ^{shall} / notify the applicant or recipient to enable such individual to withdraw his or her application or have the case closed.

.463 Continued

- c. Prior to making this determination, the county shall afford
district attorney
the/ an opportunity to review and comment on the findings
and basis for the proposed determination and/consider any
recommendation from the district attorney.

.464 Good cause may be denied if the applicant or recipient fails to meet
his or her responsibilities as specified in Section 43-107.42.

.465 The determination of whether or not good cause exists / shall be made
within 45 days from the day the good cause claim is made. This
time standard may be exceeded only where the case record documents
that the county needs additional time because: a. the information
required to verify the claim cannot be obtained within the time
standard or b. the claimant did not provide corroborative
evidence within the period required by Section 43-107.423.

.47 Sanction for Refusal to Cooperate

If the applicant or recipient has failed or refused to cooperate with
the county or district attorney within the meaning of .1 and .2 above,
then he/she shall ^{be} ineligible for aid. In this situation, aid payments
for the child(ren) who are member(s) of the FBU or for whom aid is
requested shall be made in the form of protective payments as specified
in Section 44-309.

.471 If the district attorney determines that a recipient has failed or refused to cooperate within the meaning of .1 and .2 above, he/she will provide the the county with a statement which specifies the circumstances of the recipient's refusal. The county shall take action to terminate aid to the recipient and to establish protective payments for the children in the FBU when it has verified on the basis of all available evidence the recipient refused to cooperate without good cause.

.472 All applicants and recipients shall be required to cooperate as specified in .1 above. However, the failure of a foster parent or nonneedy caretaker relative to comply with this requirement shall not result in any change in the amount of aid paid to the FBU or in the manner of payment. In foster care situations, the child's natural parent and the placing agency shall be asked to cooperate to the extent possible.

.14 As a part of the application process, the county shall

refer certain information

to the

district attorney

In all cases

referred to in this section whether or not the forms specified in .11 above were filled out.

.141 In order to refer a case to the district attorney, the county shall complete a referral form. This form along with the CA 2.1 and all other forms or information requested by the district attorney shall be sent to the district attorney's office.

.142 This referral shall be made as soon as possible after the applicant has had an opportunity to claim good cause, but not later than two working days after AFDC is paid to the family.

.15 If the county welfare department determines that the applicant and the children on behalf of whom the application was filed are ineligible for AFDC, the applicant shall be told that he or she may go to the district attorney's office for help in locating the absent parent(s) of the children, collecting child support for the children and establishing paternity.

.16 If the referral described in .14 has previously been provided to the district attorney the county / ^{shall} promptly report to the district attorney, that good cause has been claimed.

.161 Upon receiving notice from the county that an applicant or recipient has claimed good cause, the district attorney will suspend all activities to establish paternity or secure child support until notified of a final determination by the county.

.17 The county / ^{shall} promptly report to the district attorney all cases in which it has determined that there is good cause for refusal to cooperate and whether or not child support enforcement may proceed without the participation of the caretaker relative.

.171 The district attorney will not undertake to establish paternity or secure child support in any case for which it has received notice from the county that there has been a finding of good cause under Section 43-107.1 to .4 except as provided in .172 below.

.172 The district attorney will not undertake to establish paternity or secure child support if there has been a finding of good cause pursuant to Section 43-107.1 to .4 unless there has been a determination by the county that child support enforcement may proceed without the participation of the caretaker relative. If there has been such a determination, the district attorney will undertake to establish paternity or secure child support but may not involve the caretaker relative in such undertaking.

.18 The county / ^{shall} promptly report to the district attorney all cases in which it has determined that there is not good cause for refusal to cooperate.